IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2064 of 2004

OM PRAKASH TIWARI & ANR
V/S
RAMSWAROOP SINGH & ORS

Mr. SP SHARMA, for the appellant / petitioner

Mr. ASHOK PATEL, for the respondent

Date of Order : 2.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

This petition seeks to challenge the orders Annex.4 and 7.

Vide Annex.4 dated 12.11.2002, the learned trial Court dismissed the petitioner's application for amendment, seeking to add a plea about his possession having been regularised by the Sardar Club Golf Course on 18.8.2001. Against this order, a revision was filed, being S.B. C.R. No.79/2003, wherein vide order dated 20.1.2003 show cause notices were issued, and then vide order dated 3.12.2003, it was dismissed, in view of the judgment of Hon'ble the Supreme Court, in Surya Dev Rai Vs. Ramchandra Rai & Ors, reported in 2003(6) SCC 675. So far the sustainability of this order is concerned, suffice it to say, that the plaintiff had filed the suit for possession against the

defendant claiming title on the basis of registered sale deed, while the defendant claims that sale deed to be forged, or of no consequence, and claims his title on the basis of old possession. In these circumstances, simply because if during pendency of the suit, the petitioner did get his possession regularised from the Sardar Club, that is of hardly any relevance for the purpose of deciding the controversy involved in the suit.

Then coming to the order, Annex.7, dated 20.3.2004, this order again decides the petitioner's application filed under Order 6 Rule 17, and as appears from internal page 2 of this order, that the petitioner seeks to add para 2A in the written statement, which para 2A has been reproduced in the impugned order, and again seeks to incorporate the plea about Sardar Club having regularised the petitioner's possession on 18.8.2001, and the learned trial Court had dismissed the application on the ground, that this precise amendment has already been refused vide order dated 12.11.2002, and therefore, such application cannot be accepted.

In my view, in view of the fact, that no interference is required to be made in the order dated 12.11.2002, obviously no interference is required in this order dated 20.3.2004 either.

The writ petition is, therefore, dismissed summarily. The learned trial Court is, however, directed to expeditiously decide the main suit.

(N P GUPTA),J.

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